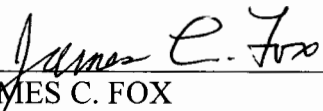


violated in the course of making the determination.” *Id.*

In his latest motion, Plaintiff states that he has received notice that the VA is in fact terminating his improved pension benefits on the basis of fraud. He asserts that the court’s previous order “clearly granted me the right to amend the Second Amended Complaint to incorporate a First Amendment retaliation claim based” on the threatened termination of benefits, and he asks that the court “order [the VA] to withdraw [the] unfavorable personnel action and threat to my life.” Emergency Motion [DE-57] pp. 1-2.

The court can issue a temporary restraining order only if the moving party demonstrates that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest. *See Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Here, Plaintiff cannot show that he is likely to succeed on the merits. As this court already has stated, *it does not have jurisdiction to hear challenges to individual veterans benefits determinations.*¹ Plaintiff’s allegations regarding the termination of his improved pension benefits are, quite simply, a challenge to his benefits determination. Moreover, to the extent that Plaintiff relies on his constitutional challenge to 38 U.S.C. § 511 to support his request for emergency injunctive relief, the court does not find that he has shown a likelihood of success on the merits. Plaintiff’s Motion [DE-56] is therefore DENIED.

SO ORDERED. This 31^{*} day of March, 2014.


JAMES C. FOX
Senior United States District Judge

¹ Accordingly, Plaintiff’s observation that the court “clearly granted” him the right to file First Amendment claim based on the termination of his benefits is incorrect. The court only allowed him to attempt to assert a First Amendment claim on the basis of the alleged threatened prosecution.